

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

DECKER CONSTRUCTION COMPANY, :	Case No. 4:18-MC-00125
:	
Plaintiff, :	Judge Benita Y. Pearson
:	
v. :	Magistrate Judge Kathleen B. Burke
:	
WESEX CORPORATION, :	
:	
Defendant. :	

**ORDER AND NOTICE OF GARNISHMENT OF PROPERTY OTHER THAN
PERSONAL EARNINGS AND ANSWER OF GARNISHEE**

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

TO CORTLAND SAVINGS AND BANKING COMPANY:

DECKER CONSTRUCTION COMPANY, the judgment creditor in the above-captioned case, has filed an affidavit in this Court stating that you have money, property, or credits, other than personal earnings, in your hands or under your control that belong to judgment debtor WESEX CORPORATION, and that some of the money, property, or credits may not be exempt from garnishment under the laws of the State of Ohio or the laws of the United States.

You are therefore **ORDERED** to complete the Answer of Garnishee in Section B of this Order and Notice of Garnishment. Return one completed and signed copy of this form to the clerk of this Court together with the amount determined in accordance with the Answer of Garnishee by the end of the fifth business day after your receipt of this Order and Notice of Garnishment. Deliver one completed and signed copy of this form to the judgment debtor and keep the other completed and signed copy of this form for your files.

The total probable amount now due on this judgment is \$144,468.45. The total probable amount now due includes the unpaid portion of the judgment in favor of the judgment creditor, which is \$143,384.00; plus interest on that judgment of \$1,084.45 (interest for 107 days at the applicable federal judgment rate of 2.58%).

You are also ordered to hold safely anything of value that belongs to the judgment debtor and that has to be paid to the court, as determined under the Answer of Garnishee, but that is of such a nature that it cannot be so delivered, until further order of the court.

TO THE CLERK OF COURT:

In accordance with Ohio Rev. Code section 2716.13(B) and (C), you are hereby directed to:

- (1) serve three copies of this Order and Notice of Garnishment along with the enclosed garnishee's fee upon the Garnishee by certified mail return receipt requested pursuant to Rule 4(A)(1)(a) of the Ohio Rules of Civil Procedure, as made applicable by Rule 4(h)(1)(A) and Rule 4(e)(1) of the Federal Rules of Civil Procedure, at the following address:

Cortland Savings and Banking Company, Attn: Statutory Agent Lance A. Morrison, P.O. Box 98, Cortland, Ohio 44410;

- (2) serve a copy of this Order and Notice of Garnishment upon the Garnishee by regular U.S. Mail at the following address:

Cortland Savings and Banking Company, 194 West Main Street, Cortland, Ohio 44410;

- (3) serve two copies of the Notice to the Judgment Debtor Wesex Corporation and of the Request for Hearing attached to the this order upon Judgment Debtor Wesex Corporation at the following address:

Wesex Corporation, 85 Garfield St., P.O. Box 286, West Middlesex, PA 16159.

Witness my hand and the seal of this court this ____ day of _____, 2019.

Magistrate Judge

SECTION B. ANSWER OF GARNISHEE

Now comes _____, the garnishee, who says:

1. That the garnishee has more than \$400 in money, property, or credits, other than personal earnings, of the judgment debtor under the garnishee's control and in the garnishee's possession.

_____ _____ \$_____
yes no if yes, amount over \$400

2. That property is described as: _____
3. If the answer to line 1 is "yes" and the amount is less than the probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay the amount of line 1 to the clerk of this court.
4. If the answer to line 1 is "yes" and the amount is greater than that probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay that probable amount now due to the clerk of this court.
5. If the answer to line 1 is "yes" but the money, property, or credits are of such a nature that they cannot be delivered to the clerk of the court, indicate that by placing an "X" in this space: _____. Do not dispose of that money, property, or credits or give them to anyone else until further order of the court.
6. If the answer to line 1 is "no," sign and return this form to the clerk of this court.

I certify that the statements above are true. _____

(Print Name of Garnishee)

(Print Name and Title of Person Who Completed Form)

Signed: _____ Dated this ____ day of _____, 2019.
(Signature of Person Completing Form)

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NOTICE TO THE JUDGMENT DEBTOR WESEX CORPORATION

You are hereby notified that this Court has issued an order in the above-captioned case in favor of Decker Construction Company, c/o John C. Cannizzaro, Ice Miller, LLP, 250 West Street, Columbus, OH 43215, the judgment creditor in this proceeding, which directs that some of your money, property, or credits, other than personal earnings, now in the possession of Cortland Savings and Banking Company, 194 West Main Street, Cortland, Ohio 44410, the garnishee in this proceeding, be used to satisfy your debt to the judgment creditor. This order was issued on the basis of the judgment creditor's judgment against you that was obtained in the United States District Court for the Southern District of Ohio in Case No. 2:18-cv-00727 on September 18, 2018. Upon your receipt of this Notice, you are prohibited from removing or attempting to remove the money, property, or credits, other than personal earnings from your accounts at the Cortland Savings and Banking Company until expressly permitted by the Court. Any violation of this prohibition subjects you to punishment for contempt of court.

The law of Ohio and the United States provides that certain benefit payments cannot be taken from you to pay a debt. Typical among the benefit payments that cannot be attached or executed upon by a creditor are the following:

- (1) Workers' compensation benefits;
- (2) Unemployment compensation payments;
- (3) Case assistance payments under the Ohio works first program;
- (4) Benefits and services under the prevention, retention, and contingency program;
- (5) Disability financial assistance administered by the Ohio department of job and family services;
- (6) Social security benefits;
- (7) Supplemental security income (S.S.I.);
- (8) Veteran's benefits;
- (9) Black lung benefits;
- (10) Certain pensions.

There may be other benefits not included in the above list that apply in your case.

If you dispute the judgment creditor's right to garnish your property, and believe that the judgment creditor should not be given your money, property, or credits, other than personal earnings, now in the possession of the Cortland Savings and Banking Company because they are exempt or if you feel that this order is improper for any other reason, you may request a hearing before this Court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your property in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the Judgment Creditor's right, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the Court, and you can state your reasons at the hearing. **NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.** If you request a hearing, the hearing will be limited to a consideration of the amount of your money, property, or credits, other than personal earnings, in the possession or control of the garnishee, if any, that can be used to satisfy all or part of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, it will be conducted before Magistrate Judge Kathleen B. Burke in Courtroom No. ___, U.S Courthouse, 2 South Main Street, Akron, OH 44503, at ____ a.m./p.m. on the ____ of _____, 2019. You may request the Court to conduct the hearing before this date by indicating your request in the space provided on the form; the Court then will send you notice of any change in the date, time, or place of the hearing. If you do not request a hearing by delivering your request for a hearing no later than the end of the fifth business day after you receive this notice, some of your money, property, or credits, other than personal earnings, will be paid to the judgment creditor.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, contact the local bar association.

Clerk of Court

Date:_____

Signature of Clerk or Deputy Clerk

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REQUEST FOR HEARING

I dispute the judgment creditor's right to garnish my money, property, or credits, other than personal earning, in the above case and request for that a hearing in this matter be held _____ (insert "on" or "earlier than") the date and time set forth in the document entitled "Notice to the Judgment Debtor" that I received with this request form.

I dispute the judgment creditor's right to garnish my property for the following reasons:

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.

(Name of Judgment Debtor)

(Signature)

(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR MONEY, PROPERTY, OR CREDITS, OTHER THAN PERSONAL EARNINGS, NOW IN THE POSSESSION OF (GARNISHEE'S NAME) WILL BE PAID TO (JUDGMENT CREDITOR'S NAME) TO SATISFY SOME OF YOUR DEBT TO (JUDGMENT CREDITOR'S NAME).